HONOURABLE SRI JUSTICE B. SESHASAYANA REDDY

WRIT PETITION No.7212 OF 2004

Dated 22-11-2005

Between :

Global Education Centre represented by its Secretary K.M. Arifuddin, son of K.M. Qamuruddin, aged about 58 years, Occupation : Social Service, resident of Himayathnagar, Hyderabad.

Petitioner.

And:

All India Counsel for Technical Education, represented by its Member Secretary, Indira Gandhi Sports Complex, New Delhi and others.

…Respondents.
ORDER :

This writ petition has been filed by the Global Education Centre, represented by its Secretary assailing the letter bearing No.104/MR/Stat/Acad/2004 dated 29-1-2004 issued by the 2nd respondent-Osmania University.

2. The case of the writ petitioner as set out in the affidavit filed in support of the writ petition in brief is as follows:

The petitioner-Institution was established in the year 1999-2000 as per the approval accorded by the AICTE, New Delhi. The Registrasr, Osmania University-2nd respondent issued a show cause notice dated 31-12-2003 bearing No.3532/H/2003-2004/A.A.C/Global-Acad-IV-1 stating as to why petitioner-institution should not be disaffiliated to offer MBA course for collecting development fee from the students contrary to the instructions of Government of Andhra Pradesh/University. The relevant portion of the show-cause notice dated 31-12-2003 reads as follows :

> "In view of the above, the Secretary Principal of the Global Education Centre, Hyderabad, is directed to explain within 7 days from the date of issue of this Show-Cause Notice as to why Global Education Centre, Himayath Nagar, Hyderabad should not be dis-affiliated to offer M.B.A. course for violating the Government of Andhra Pradesh University instructions with regard to illegal collection of Development Fee and other Fee from students of M.B.A. course 2002-2003 batch."

The petitioner-institution issued a detailed reply stating that the development fee for M.B.A. was collecting as per Public Notice No.AICTE/LEGAL/17/2002 in "The Hindu" dated 07-09-2002 issued by the AICTE. The 2nd respondent-University issued a letter bearing No.3714/stat/Acad/2002 dated 22-11-2002 with instructions not to collect Development fee from the students of M.B.A course 2002-2003. The petitioner-institution received the letter on 30-11-2002 and since then no development fee has been collected from the students even though the letter is contrary to the notification issued by the AICTE and the interim order of the Court passed in W.P. No. 22060 of 2001. The 2nd respondent-University under letter dated 29-01-2004 instructed the petitioner-institution not to collect Development Fee from the student of M.B.A./M.C.A. course for the academic year 2002-03. Hence, this writ petition assailing the letter issued by the 2nd respondent-University.

3. Counter affidavit has been filed on behalf of the 2nd respondent-University. One M.Mutha Reddy has sworn to the counter affidavit.

It is stated in the counter-affidavit that a meeting was called for on 26-10-2003 by the Secretary, A.P. State Council for Higher Education with the managements of the minority professional colleges wherein it was decided not to collect the development fee during the academic year 2002-2003 since the circular of the respondent No.1 came to be issued after commencement of the counseling. I deem it appropriate to refer paragraphs 5 to 7 of the counter-affidavit and they are as follows :

> "5. I respectfully submit that, a meeting was called for on 26-10-2003 by the Secretary, A.P. State Council for Higher Education with the managements of the minority professional colleges wherein it was decided not to collect the development fee during the academic year 2002-2003 since the circular of the respondent no.1 was received after the counseling was commenced. By that time itself, the Government did not permit to collect the development fees.
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> 6. I respectfully submit that, the public notice cannot be treated as the orders for collecting the fees. The State Council has not given any notification nor passed orders to university for collecting the development fees.

7. I respectfully submit that, the above writ petition is not maintainable both on question of facts and law as such the same is liable to be dismissed."

4. Heard the learned counsel for the petitioner and the learned standing counsel for the 1st respondent and the learned standing counsel for the 2nd respondent.

5. The learned counsel for the petitioner submits that fixation of the Development Fee is within the purview of All India Counsel for Technical Education-1st respondent and therefore, the letter impugned in the writ petition directing the petitioner-institution not to collect the Development Fee is not legal and proper. He refers the notification bearing No.AICTE/LEGAL/17/2002 issued by the All India Council for Technical Education fixing the Development Fee.

6. The learned standing counsel for the 2nd respondent submits that the Government having taken into consideration various aspects decided not to permit the colleges to collect the Development Fee from the students and accordingly, communication has been sent to all the institutions including the petitioner's institution and thus the writ petition is liable to be dismissed.

7 The learned standing counsel for the 1st respondent submits that a notification dated 07-09-2002 has been issued wherein the Development Fee has been fixed which is subject to the approval by the State Level Fee Fixation Committee.

8. As seen from the records, the AICTE has issued notification bearing No.07-09-2002 fixing the Development Fee. The notification reads as follows :

"ALL INDIA COUNCIL FOR TECHNICAL EDUCATION

(A Statutory Body of the Government of India)

Indira Gandhi Sports Complex I.P. Estate, New Delhi-110 002

Adv. No.AICTE/LEGAL/17/2002

PUBLIC NOTICE

All India Council for Technical Education (AICTE) is a Statutory Body of the Govt. of India created by the Act of Parliament for Coordinated and integrated Development of Technical Education in the country. This advertisement is issued in the public interest for information of all AICTE approved Self Financing Technical Institutions and general public regarding Fee Structure.

In accordance with the Regulations framed by AICTE and Policy Resolutions of the Govt. of India, the Fee Structure has two components. "Development Fee" and "Tuition Fee" (including other fees). AICTE has constituted State Level Fee Fixation

Committees for determining Tuition Fee (including other fees). All Self Financing Technical Institutions are required to charge the Tuition Fee (including other fees) as fixed by the State Level Fee Fixation Committee of the concerned State Fixation of Development fee is the responsibility of the AICTE, New Delhi and accordingly, AICTE has already announced the following Development Fee, based on the recommendations of the National Fee Committee for Degree Level Technical Institutions :

Discipline	Free Seat (Rs.)	Payment Seat (Rs.)	NRI Seat(s)
Engineering Degree	4000	9000	1000
Degree Arch/ Town planning	4000	9000	1000
MBA Level Programme	4000	9000	1000
MCA Level Programme	4000	9000	1000
HMCT Degree	4000	9000	1000
Pharmacy Degree	4000	12000	1000

The above Development Fee will be valid till further orders w.e.f. Academic year 2002-2003 and may be collected from the students every year in the beginning of each academic year."

9. A plain reading of the notification indicates that the development fee fixed is subject to the approval of the State Level Fee Fixation Committee.

10. The Government has taken into consideration the judgment of the Supreme Court in TMA Pai Foundation and Others Vs. State of Karnataka and Others while issuing G.O. Ms. No. 46 dated 5-7-2003 whereunder fee has been fixed for M.B.A. and M.C.A. Courses. Para 9 of the said G.O. is relevant and it is thus :

"FEE FOR MBA AND MCA COURSES:

The fee payable shall be :

(i) The candidates admitted in the University Colleges in the post graduate courses MBMA/MCA shall pay the fees as decided by the concerned University.

(ii) A fee of Rs.20,000/- (Rupees Twenty Thousand only) per student per annum shall be payable by the candidates admitted under the Convener Seats, (85%) in Un-Aided Non-Minority Colleges and under Convener seats (30%) and Management seats (55%) in Un-Aided Minority Professional

Colleges offering these courses.

(iii) The Managements of both Un-Aided Non-Minority and Un-Aided Minority Institutions may charge upto a fee of Rs.60,000/- per student per annum for 15% Management seats without amounting to profiteering and without charging capitation fee.

(v) The Management shall not collect any other fees in the name of Development Fee, Building Fee, Infrastructure Development Fee etc., except Refundable deposits like Library Deposit, Laboratory Deposit etc., and shall not charge any capitation fees or resort to profiteering in accordance with the judgment of the Supreme Court cited above.

(vi) The fee structure of the courses in all cases shall be reviewed once in two years.

(vii) The candidates who were admitted in the colleges prior to the academic year 2003-2004 shall continue to pay the fees at the rate existing at the time of their admission."

11. It is evident from the above referred G.O. that the management shall not collect any other fee in the name of the Development Fee. In that view of the matter, I do not find any flaw in the letter No.104/MR/Stat/Acad/2004 dated 29-1-2004 issued by the 2nd respondent-Osmania University.

12. Accordingly, the writ petition is dismissed. No costs.

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Justice B.SESHASAYANA REDDY

Date : 22-11-2005.

Dvs

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